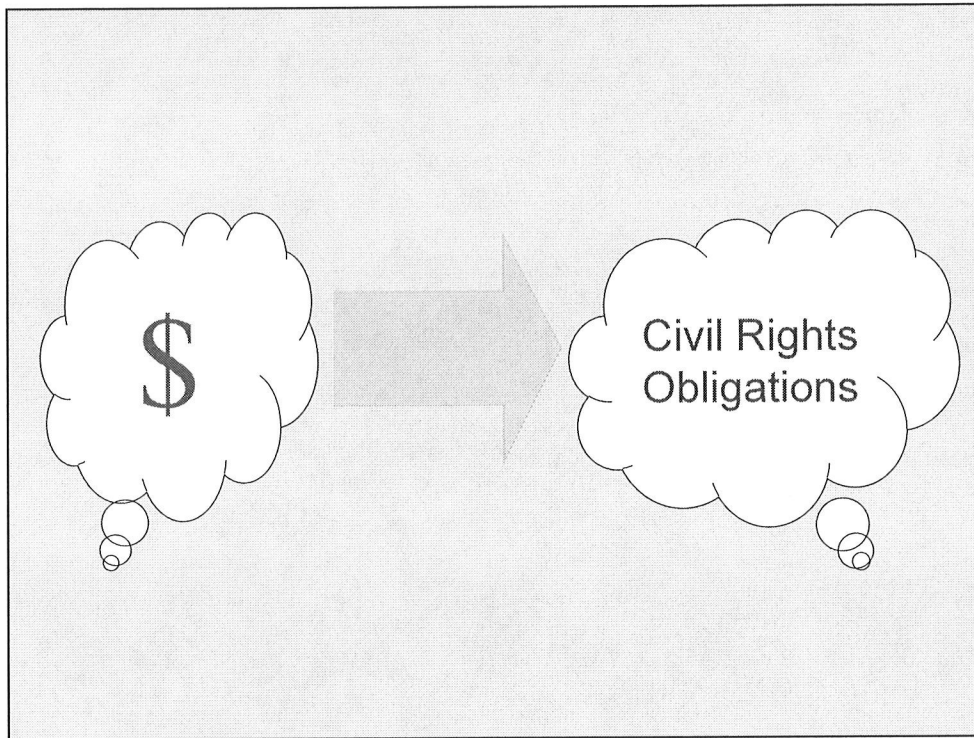


Office for Civil Rights
U.S. Department of Justice

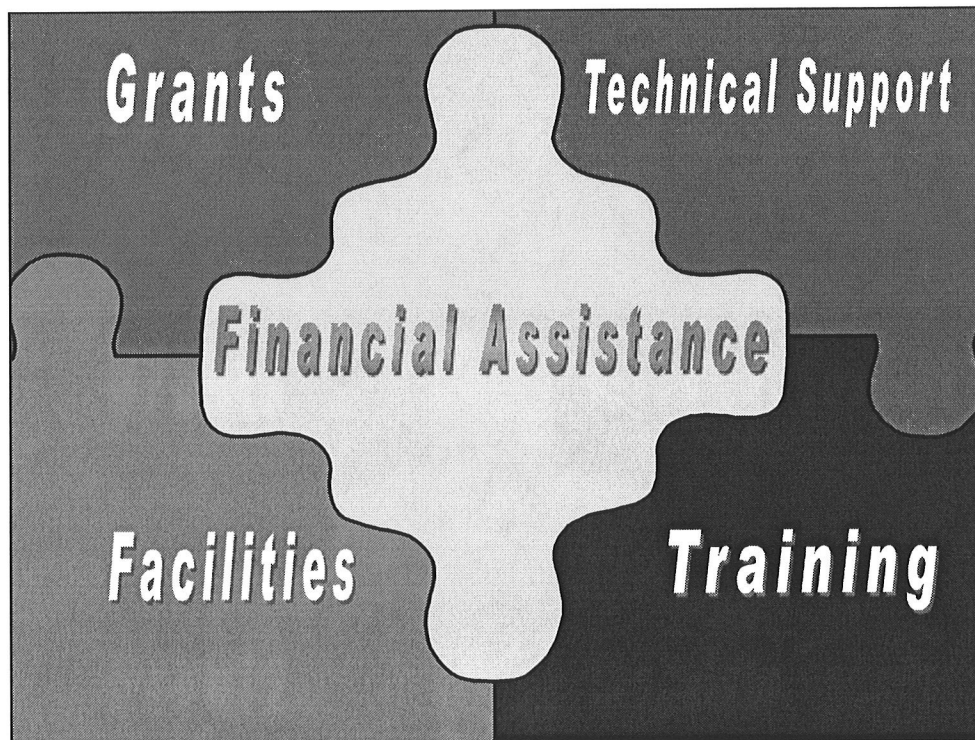
Office of Justice Programs



Information on Civil Rights
for CJD Grantees



This presentation provides a great deal of useful information about civil rights laws and their application to Federal grantees. However, when all is said and done, if nothing else, everyone should leave today with one simple concept: whenever Federal funds are involved, there are civil rights requirements that follow.



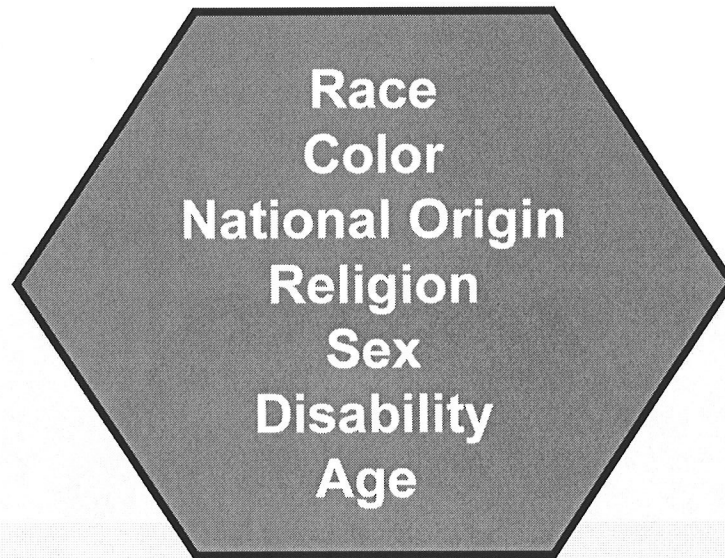
When we think of Federal financial assistance, we often think just about dollars--grants that various organizations receive, in this case, from the Department of Justice. However, Federal financial assistance can include things other than money. Asking a Federal agency for technical assistance is also Federal financial assistance (e.g., when a local police department asks the FBI lab for analysis of crime evidence). Financial Assistance can include training or education programs that the Federal government supplies (e.g., training to police administrators at the Quantico FBI academy). Financial assistance may take the form of facilities purchased or used with Federal funds (e.g., a prison constructed with Federal funds continues to be Federal financial assistance during all the years it is used for that purpose).

The Office for Civil Rights Enforces

- † **Title VI of the Civil Rights Act of 1964**
- † **Program Statutes (e.g., Safe Streets Act, Victims of Crime Act, JJDP)**
- † **Section 504 of the Rehabilitation Act of 1973**
- † **Title II of the Americans with Disabilities Act of 1990**
- † **Age Discrimination Act of 1975**
- † **Title IX of the Education Amendments of 1972**

- **Title VI of the Civil Rights Act of 1964**, as amended, 42 U.S.C. § 2000d *et seq.* (prohibiting discrimination in programs or activities on the basis of race, color, and national origin)
- **Omnibus Crime Control and Safe Streets Act of 1968**, as amended, 42 U.S.C. § 3789d(c)(1) (prohibiting discrimination in employment practices or in programs and activities on the basis of race, color, religion, national origin, and sex)
- **Section 504 of the Rehabilitation Act of 1973**, 29 U.S.C. § 794 *et seq.* (prohibiting discrimination in employment practices or in programs and activities on the basis of disability)
- **Title II of the Americans with Disabilities Act of 1990**, 42 U.S.C. § 12131 (prohibiting discrimination in services, programs, and activities on the basis of disability)
- **Age Discrimination Act of 1975**, 42 U.S.C. § 6101-07 (prohibiting discrimination in programs and activities on the basis of age)
- **Title IX of the Education Amendments of 1972**, 20 U.S.C. § 1681 *et seq.* (prohibiting discrimination in educational programs or activities on the basis of sex)

Protected Classes



- (1) Federal civil rights laws apply to all “protected classes.”
- (2) Note color discrimination can occur intra-racially.
- (3) Note one type of National origin discrimination are barriers to accessing a program by LEP persons.
- (4) Religion does NOT mean that one has to belong to a certain traditional religion such as Baptist , Islam or Catholic. The term religion was expanded by courts during the Vietnam War era when people who were considered conscientious objectors wanted the status of religious beliefs to protect their stance. If you were a member of a traditional PEACE church such as Quakers, or Church of the Brethren, courts would recognize those positions and provide protection. Then people began saying, “I have the same conviction, but I don’t belong to one of the churches”. Courts said people could have religious beliefs protection if the matter in question is a SINCERELY HELD MORAL OR ETHICAL BELIEF. So law was developed around this concept and the protection was taken into the employment context.
- (5) Note that protection against sexual harassment is one part of sex discrimination.
- (6) Sexual orientation or preference is in itself not a Federally protected class. However, the Supreme Court has recognized that gay people can be protected under certain employment contexts (i.e., workplace harassment based on the perception of being gay or a gay employee being the target of same sex harassment. Such complaints would fall within Federal non-discrimination prohibitions and would be protected by Federal civil rights laws.

Religion

Definitions

**All aspects of religious practice
as well as belief**

42 USC 2000e(j)

**Includes sincerely held moral or
ethical beliefs**

29 CFR 1605.1



The Safe Streets Act, following the standards of Title VII of the Civil Rights Act of 1964, provides protection against being retaliated for opposing discriminatory practices. That is, if a person files an employment discrimination complaint, regardless of its merits, an employer cannot retaliate against the employee who filed the complaint. The same protections are available for service discrimination complaints under Title VI (28 C.F.R. 42.207(e)). Retaliation claims are often easier to prove than the underlying discrimination claims.

Title VI, Civil Rights Act of 1964

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(1) Title VI provides the basis for civil rights protections in Federally assisted programs. Other statutes, following this language, have expanded the protected classes.

(2) Program or activity is a term of art, meaning that it applies to a whole organization that receives Federal funding. Generally, the entire department or office within a state or local government is identified as the “program or activity.”

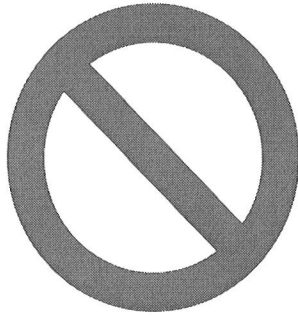
(3) Examples:

(a) If a state receives funding that is designated for a particular state prison, the entire state department of corrections is considered the covered program or activity, but not, however the entire state.

(b) If a project of a county fire department receives Federal funds, the entire fire department is covered, but not the other departments in the county.

(c) If the office of a mayor receives Federal financial assistance and distributes it to departments or agencies, all of the operations of the mayor’s office are covered along with the departments or agencies which actually receive the aid from the mayor’s office.

(d) If one school in a post-secondary educational institution receives Federal financial assistance, then the whole school system is subject to Title VI.



Title VI Prohibits

- Providing **different** services to individuals
- Denying the opportunity to participate as a member of a **planning or advisory body**
- Selecting the **location of a facility** with the purpose or effect of excluding individuals

Title VI Department of Justice Regulations outline specific discriminatory actions that are prohibited (28 C.F.R. 42.104). A recipient may not

- Directly or through contractual or other arrangements discriminate on the basis of race, color, or national origin;
- Deny an individual any disposition, service, financial aid, or benefit;
- Subject an individual to segregation or separate treatment;
- Treat an individual differently from others in determining whether he or she satisfies any admission, enrollment or eligibility requirement or condition which individuals must meet to be provided the funded service;
- Deny an individual an opportunity to participate or afford him or her services that are different from those provided to others;
- Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program;
- In determining the type of service or class of individuals served, may not discriminate on the basis or race, color, or national origin;
- In determining the site or location of facilities, may not make selections that have the purpose or effect of discriminating. (E.g., location of a correctional facility distant from Indian Country).

Omnibus Crime Control and Safe Streets Act of 1968

(OJP Program Statute)

No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this chapter.

(1) The Safe Streets Act tracks Title VI, adding other **protected categories** (noted in red). Other statutes that we have already discussed add other protected classes. What are they? (Answer: disability and age).

(2) Although it's unlikely, just for the sake of argument, what if a particular program receives just \$1.00 in Federal financial assistance--is it still covered? Yes. Note the language in the statute states "funded in whole or in part." So, it doesn't matter the level of funding--any Federal financial assistance brings with it civil rights obligations.

(3) The Safe Streets Act, unlike Title VI, applies to both **benefits** and **employment** (in green).

Victims of Crime Act

No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this chapter.

(1) The VOCA tracks SSA, by adding other **protected categories** (noted in red) to Title VI. Other statutes that we have already discussed add other protected classes. What are they? (Answer: disability and age).

(2) Although it's unlikely, just for the sake of argument, what if a particular program receives just \$1.00 in Federal financial assistance--is it still covered? Yes. Note the language in the statute states "funded in whole or in part." So, it doesn't matter the level of funding--any Federal financial assistance brings with it civil rights obligations.

(3) The VOCA, unlike Title VI, applies to both **benefits** and **employment** (in green).

(4) VOCA's language of "undertaking" tracks the Title VI language of Program and Activity and is a term of art, which therefore applies to the entire organization that receives funding, not just the particular program.

Section 504 of the Rehabilitation Act of 1973

Handicapped person means any person who

- has a physical or mental impairment which substantially limits one or more major life activities**
- has a record of such an impairment, or**
- is regarded as having such an impairment**

See 28 C.F.R. 42.505.

(c) Self-evaluation plan

(d) Designation of responsible employee

(e) Adoption of Grievance Procedures

(f) Notice "... The notification shall state where appropriate, that the recipient does not discriminate in its programs with respect to access, treatment or employment. The notification shall also include identification of the person responsible for coordinating compliance with this subpart and where to file section 504 complaints with the Department and, where applicable, with the recipient."

(2) Recruitment materials or publications containing general information that a recipient makes available to participants, beneficiaries, applicants, or employees shall include a policy statement of nondiscrimination the basis of handicap.

(g) The Department may require any recipient with fewer than fifty employees and receiving less than \$25,000 in Federal financial assistance to comply with paragraphs (c)(2) and (d) through (f) of this section.

Section 504 of the Rehabilitation Act of 1973

A recipient with 50 or more employees and receiving Federal financial assistance from the Justice Department of \$25,000 or more must

- designate a Section 504 compliance coordinator**
- adopt grievance procedures**
- notify program participants, beneficiaries, applicants, employees, unions, organizations with collective bargaining agreements, that recipient does not discriminate on the basis of disability**

See 28 C.F.R. 42.505.

(c) Self-evaluation plan

(d) Designation of responsible employee

(e) Adoption of Grievance Procedures

(f) Notice “. . . The notification shall state where appropriate, that the recipient does not discriminate in its programs with respect to access, treatment or employment. The notification shall also include identification of the person responsible for coordinating compliance with this subpart and where to file section 504 complaints with the Department and, where applicable, with the recipient.”

(2) Recruitment materials or publications containing general information that a recipient makes available to participants, beneficiaries, applicants, or employees shall include a policy statement of nondiscrimination the basis of handicap.

(g) The Department may require any recipient with fewer than fifty employees and receiving less than \$25,000 in Federal financial assistance to comply with paragraphs (c)(2) and (d) through (f) of this section.

ADA & 504 Resources

- The ADA Technical Assistance Program provides direct, free information and technical assistance
- Comprehensive Website www.ada.gov
- Toll-Free Information Line
Voice 800-414-0301; TTY 800-514-0383
- Outreach Initiatives
- Technical Assistance Resources

FAITH BASED ORGANIZATIONS

- Government agencies must remove barriers for FBOs applying for aid
- Government agencies providing financial assistance must not discriminate either in favor of or against FBOs

1. Note that President issued EO 13198 in January 2001 indicating that programmatic obstacles to inclusion of FBOs in F. Funding programs must be eliminated
2. President issued EO 13279 in December 2002 charging Fed agencies with giving equal treatment to FBOs as it does with other agencies applying for assistance consistent with the First amendment.



DOJ Regulations issued for FBO guidance, Jan. 2004

- FBOs must not use Federal funding to advance inherently religious activities
- FBOs may not discriminate against beneficiaries based on religion or religious belief
- FBO Regulations do not alter existing statutory non-discrimination provisions against employment discrimination

1. An FBO may retain its religious icons in the room where it serves beneficiaries with Federal funds, however, funds may not be used for proselytizing or conversion efforts.
2. An FBO may not deny services to a person who is either of a different belief or has no religious beliefs.
3. FBOs do not lose Title VII exemption, however, program statutes nondiscrimination provision still apply.
4. FBOs who receive exemptions under RFRA, still retain the RFRA exemption.

FBO Reg & Employment

- Funded FBOs do not forfeit Title VII's exemption from religious discrimination in employment.
- "Some Department programs, however, contain independent statutory provisions requiring that all grantees agree not to discriminate in employment on the basis of religion. Accordingly, grantees should consult with the appropriate Department program office to determine the scope of any applicable requirements." 28 CFR 38.1(f) & 38.2(f)

Do FBOs need to have 501(c) (3) tax status to receive funding?

Answer: **NO***

* One Exception: nonprofits funded under the Juvenile Justice and Delinquency Prevention Act

4 Ways for Applicant FBOs to Prove Nonprofit Status

- ▶ IRS recognizes as 501(c)(3)
- ▶ Statement from State taxing body or State Secretary of State certifying
 - (a) organization is nonprofit operating within State; and
 - (b) No part of the organization's net earnings may lawfully benefit any private shareholder or individual
- ▶ Certified copy of certificate of incorporation or similar document establishing nonprofit status
- ▶ Any of the above, if it applies to a State or national parent organization, with a statement by the State or parent organization that the applicant is a local nonprofit affiliate

Civil Rights Laws & American Indians

An Important Distinction:

Recipient

When **Tribes** receive Federal financial assistance, they are **not subject to the enforcement of Federal Civil Rights Laws** when they function as an **employer**; tribes may be responsible as a provider of services.

But

Beneficiary

American Indians, as employees or as beneficiaries of a non-Tribal organization receiving Federal financial assistance, **are protected by Federal Civil Rights Laws.**

N.B. Tribal corporations may or may not be employers under Title VII.

Pink v. Modoc Indian Health Project, 157 F.3d 1185 (9th Cir. 1998) – Nonprofit corporation created by two Indian tribes to deliver services under the Indian Self-Determination and Education Assistance Act was a “tribe” within the scope of Title VII’s Indian tribe exemption. According to the court, the corporation served as an arm of the sovereign tribes, acting more than a mere business.

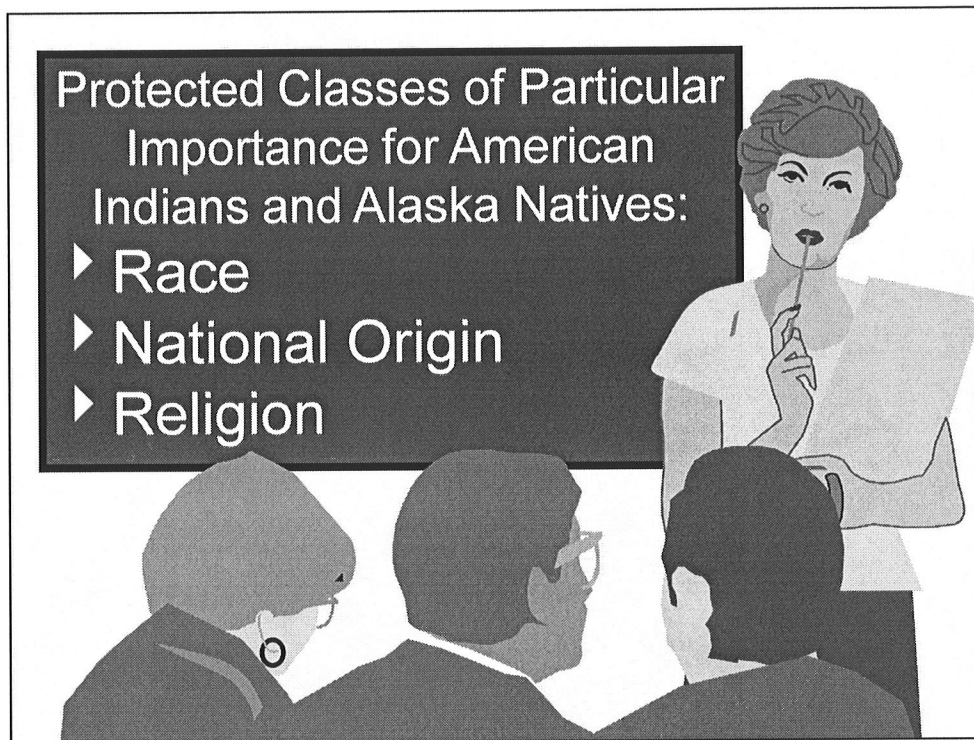
Dille v. Council of Energy Resource Tribes, 801 F.2d 373 (10th Cir. 1986) – A council comprised of thirty-nine Indian tribes that had joined together to collectively manage energy resources was a “tribe” within the scope of Title VII’s Indian tribe exemption.

Myrick v. Devils Lake Sioux Mfg. Corp., 718 F. Supp. 753 (D.N.D. 1989) – Title VII and ADEA applied to a corporation, 51% of which was owned by a tribe. The corporation was incorporated under the laws of the State of North Dakota. The court noted that a tribe or an arm of a tribe was not a party.

Roberson v. Confederated Tribes, No. 79-546, 1980 WL 18759 (D. Or. Feb. 4, 1980) – Commercial entity of a tribe could be sued under the National Labor Relations Act, because there is a distinction between tribal employers acting in their governmental capacities and tribal employers acting as corporations. Tribally owned businesses that involve the hiring of non-Native Americans and commercial activities with non-Native Americans are not internal affairs involving tribal governments.

Duke v. Absentee Shawnee Tribe of Okla. Hous. Auth., 199 F.3d 1123 (10th Cir. 1999) – Agency created under a state ordinance to provide and maintain low-income house for members of a tribe was an “Indian tribe” exempt from Title VII. It was exempt even though a tribe had chosen to create the agency pursuant to a state statute rather than a tribal ordinance.

Long v. United Tribes of Kan., No. 92-2454-KHV, 1993 WL 2450007 (D. Kan June 4, 1993) – Entity contracting with state to administer the disbursement of funds under a state program did not fall within the “Indian tribe” exemption to Title VII. United Tribes was “acting as an arm of the government by virtue of the contract.”



Definition of American Indian for civil rights protections: an employee would be entitled to protection of Title VII against employment discrimination regardless of his percentage of Native American ancestry if the employer reasonably believed that the employee was a member of a protected class based on some objective evidence, which may consist of physical appearance, language, cultural activities, or associations. See Perkins v. Lake County Dep't of Utilities, 860 F.Supp. 1262 (N.D. Ohio 1994). One does not have to prove bloodlines or show tribal membership to be eligible for protection under Federal civil rights laws. The legal definition for American Indian for civil rights purposes is not the same as for Federal Indian entitlement programs.

American Indians have brought suit under Title VII under both national origin and race.

Discrimination in employment on the basis of membership in a particular Indian tribe (e.g., favoring members of the Navajo Tribe over members of the Hopi Tribe) constitutes national origin discrimination in violation of Title VII Dawavendewa v. Salt River Proj. Agri. Improv. and Power Dist., 154 F.3d 1117 (9th Cir. 1998).

Indigenous religious practices and beliefs are covered under the protected class of religion.

A State may be discriminating
against American Indians if . . .

The State has implemented a policy
of denying funding to Tribes, based
on Tribes having received or having
direct access to Federal financial
assistance.

The Safe Streets Act contains
a State liability waiver in
regard to Indian Tribes.

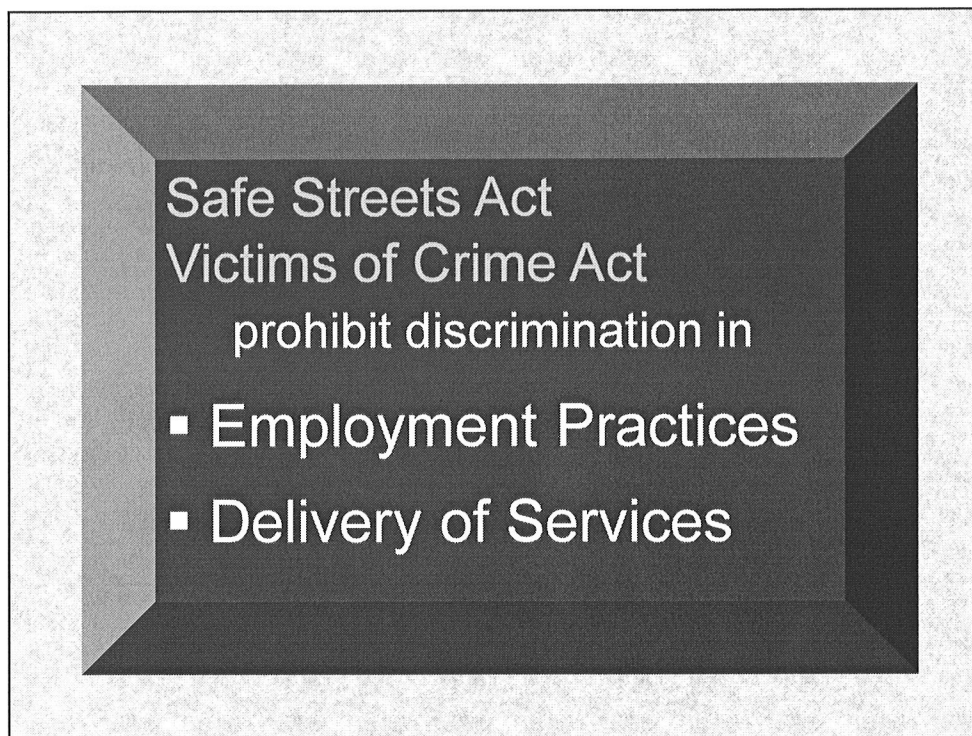
States do not need to require
Indian Tribes to waive
sovereign immunity to qualify
as subgrantees.

42 USC 3789I: Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the AAG is authorized to waive State liability and may pursue such legal remedies as are necessary.

From the Legislative History re *Indian Tribe Liability*: As reported by the Committee, S. 2212 authorizes LEAA to waive the liability that remains with a State under a state subgrant agreement with an Indian tribe where the State lacks jurisdiction to enforce the liability of the Indian tribe under the subgrant agreement. Upon waiving the state's liability, the Administration would then be able to pursue available legal remedies directly or enter into appropriate settlement action with the Indian tribe.

“Although at first blush, this authority would appear to be directed against the Indian tribes, it is actually designated to provide for their increased participation in the LEAA program. Under the current provisions of title I of the Omnibus Crime Control and Safe Streets Act, each state is liable for misspent subgrant funds, a liability that cannot be waived by LEAA. It is then up to the State to seek indemnification from the subordinate jurisdiction. In some jurisdictions, by virtue of treaty or otherwise, States do not have the legal authority to seek such indemnification from certain Indian tribes.

“The possibility of being held liable by LEAA for subgrant funds misspent by those Indian tribes without the ability to seek indemnification has resulted in a hesitancy on the part of those States to award funds to the tribes. The provision of a statutory waiver authority, allowing these States to avoid liability in these instances will encourage them to increase the amount of funds provided to the tribes and increase Indian participation in the LEAA program.”



(1) **Employment discrimination.** Most people are familiar with Federal protections when it comes to employment (e.g., an employer cannot refuse to hire or promote someone based on race or sex, etc.).

(2) Note that employment discrimination protections in the Safe Streets Act apply to American Indians that work for a non-Tribal organization receiving DOJ funds.

(3) Services Discrimination prohibitions also applies to Tribes under SSA since Tribes are particularly mentioned in the definition in the SSA. However, under other civil rights laws, it is not clear that service discrimination prohibitions would also apply to tribes.

4) **Services Discrimination.** Examples:

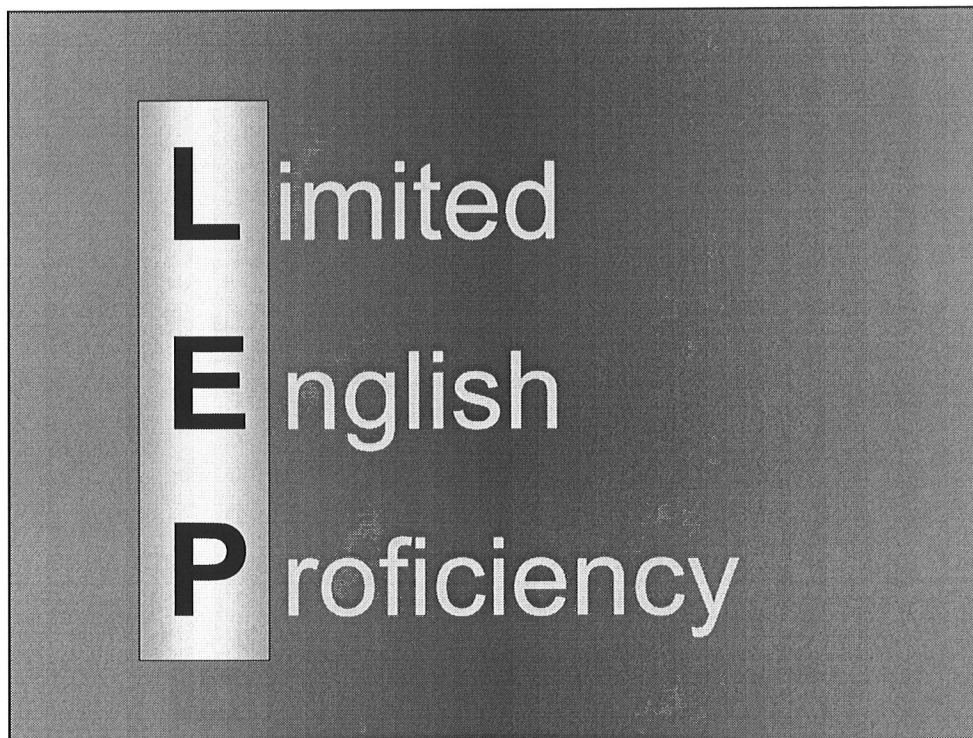
(a) A funded county sheriff's department stops all Hispanic motorists traveling through the county on a particular county road.

(b) A funded victim's assistance hotline does not provide an alternative telephone service for hearing impaired people (e.g., TTY).

(c) A state planning agency, in a state with a large Native American population, convenes an advisory committee to assist in the process of identifying high priority programs within the state that would benefit from Federal resources. The committee has no Native Americans.

(d) Male guards at a funded female prison sexually harass the inmates.

(e) A funded police department consistently responds a half hour slower to an apartment building that houses senior citizens than it does to a apartment building across the street with residents of a variety of ages.



Limited English Proficiency

This portion of the presentation will provide some specific information related to providing services to LEP persons.

Background:

Since 1976, DOJ's regulation has included requirements regarding the provision of written language assistance for LEP persons. In January, DOJ published a document for recipients of DOJ funds that clarifies the responsibilities of recipients to LEP persons.

National Origin Discrimination

Includes discrimination on the basis of Limited English Proficiency (LEP).

A Limited English Proficient (LEP) person has a first language other than English and a limited ability to read, speak, or understand English.

As noted earlier, both Title VI and the Safe Streets Act prohibit discrimination on the basis of national origin. This includes discrimination on the basis of limited English proficiency.

Provide definition of LEP:

Someone whose first or primary language is not English and who has limited ability to read, speak or understand English. These folks may have some English ability, but they are not able to communicate effectively in English. That limited English ability may act as a **barrier** to accessing benefits or services, understanding and exercising important rights, or understanding other information provided by Federally funded programs or activities.

Title VI was intended to eliminate **barriers** based on national origin etc. in Federally funded programs.

*To avoid
discrimination
against LEP persons,
recipients must*

- Take **reasonable steps** to ensure **meaningful access** to the programs, services, and information the recipients provide, **free of charge**.
- Establish and implement **policies and procedures** for language assistance services that provide LEP persons with meaningful access.

Meaningful access -- The key to providing meaningful access is accurate and effective communication between the DOJ recipient and the LEP individual.

- Was the LEP person given adequate information?
- Is he able to understand the services and benefits that are available?
- Is she able to receive the services and benefits for which she is eligible?
- Can the LEP person effectively communicate the relevant circumstances of his or her situation?

MUST** -- These POINTS REGARDING MEANINGFUL ACCESS are not OPTIONAL. However, recipients are not required to use the methods and options listed in the Guidance. There is considerable **flexibility** in determining how to comply with the meaningful access requirement.

What are reasonable steps?

Four Factor Analysis

1. The ***number or proportion*** of LEP persons served or encountered in the eligible service population.
2. The ***frequency*** with which LEP individuals come in contact with the program.
3. The ***nature and importance*** of the program, activity, or service provided by the program.
4. The ***resources*** available to the recipient.

Recipients **should** apply these four factors to decide what reasonable steps they need to take to ensure meaningful access for LEP persons.

In other words, this is a tool to help recipients decide what documents to translate, when oral translation is necessary and whether language services must be made immediately available. A recipient may find that different language services are needed for different types of programs and services -- some activities are more important OR have greater impact on OR contact with LEP persons SO they require more language assistance services.

REVIEW THE FACTORS

Think of these factors as operating along a continuum -- the greater each one is, the greater the obligation to provide language assistance services

What are language services?

Provide
oral
language
services

and

Provide
translation
of written
materials

Insure Interpreter Competency

Usually family members, friends, and uncertified co-workers are not appropriate.

Safe Harbor Provision

If 5% or 1,000 (whichever is less) of population is LEP, VITAL documents must be translated

However, if 5% represents fewer than 50, then written notice of free written translation upon request must be provided).

After applying the Four Factor Analysis, you discover that there are LEP persons in the service population and that they do come in contact with the program. The program is important and you have some resources available to provide some language assistance services.

The next step is deciding what language assistance services you will use.

Two options:

Oral language services (or interpreters) AND translation of written materials.

Two things that need to be emphasized:

Recipients should ensure that Interpreters are competent. In most cases, use of family members (especially juveniles) or friends will not be appropriate. This is also true for using inmates to other detainees to interpret.

There is a "safe harbor" provision in the guidance for translation of written documents ONLY -- these are based on the number of LEP persons in the service population.

Can law enforcement agencies use “equitably shared” funds to provide language services?

YES! DOJ's Asset Forfeiture and Money Laundering Section advises recipient law enforcement agencies that they may use “equitably shared” funds to provide language assistance services to LEP persons.

Examples:

- ❖ **Language training for law enforcement officers and 911 operators**
- ❖ **Contracts for translation and interpretation services**
- ❖ **Law enforcement documents in languages other than English**

What should a written LEP Policy have?

Five Elements

- A process for identifying LEP persons who need language assistance
- Information about the available language assistance measures
- Training for staff
- Notice to LEP persons
- Monitoring and updating the LEP policy

Now that you have completed the Four Factor analysis and selected language assistance services, you should write an LEP policy so that everyone knows what is required and where to go to get assistance.

Effective programs usually have these five elements (on the slide).

Assurances

The applicant also specifically assures and certifies that:

6. It will comply (and will require any subgrantees or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d); the Victims of Crime Act (42 U.S.C. 10604(e)) ; the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. 5672(b); the Civil Rights Act of 1964 (42 U.S.C. 2000d); the Rehabilitation Act of 1973 (29 U.S.C. 794); the Americans with Disabilities Act of 1990 (42 U.S.C. 12131-34); the Education Amendments of 1972 (20 U.S.C. 1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. 6101-07); see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).

Assurances

The Applicant assures and certifies that

(11) It will comply, and assure the compliance of all its **SUBGRANTEES** and contractors . . .

(13) It will comply, and its contractors will comply, with the **NONDISCRIMINATION REQUIREMENTS** of the Omnibus Crime Control and Safe Streets Act of 1968 [and other Federal civil rights statutes and regulations].

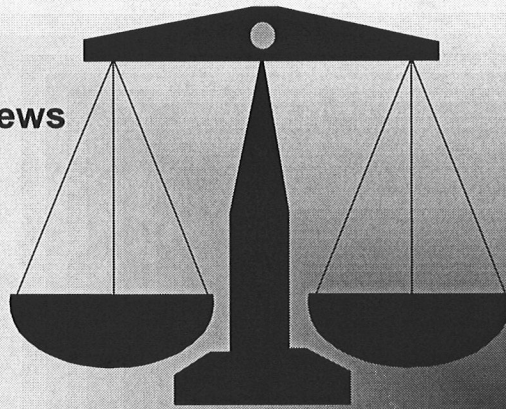
(14) In the event a Federal or State court or Federal or State administrative agency makes a **FINDING OF DISCRIMINATION** after a due process hearing on the ground of race, color, religion, national origin, sex or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.

(15) It will provide an **EQUAL EMPLOYMENT OPPORTUNITY PROGRAM** if required to maintain one, where the application is for \$500,000 or more.

We have discussed Federal statutes that apply to recipients of Financial assistance from OJP and COPS. However, there is also a separate **contractual basis** for civil rights obligations. These are contained in **Certified Assurances** that an applicant submits with a request for funding.

OJP's Civil Rights Enforcement

- ▶ **EEOPs** (Equal Employment Opportunity Plans)
- ▶ **Complaints**
- ▶ **Findings**
- ▶ **Compliance Reviews**



Enforcement:

(1) EEOPs -- a statistical analysis of a grantee's workforce in comparison to its service population by job category and race, sex, and national origin.

(2) Complaints -- individual files a complaint with OCR, OCR checks jurisdiction, notify the funded entity, gather information, OCR may make an on-site investigation, issue finding of compliance or non-compliance. If finding of non-compliance is issued OCR works with the funded organization to reach compliance. On the rare occasion of continued non-compliance, a funded entity may face suspension or termination of funding.

(3) Findings of Discrimination

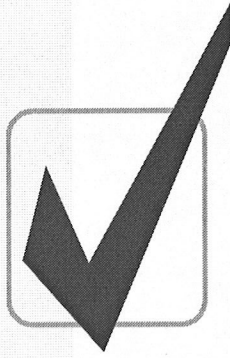
(4) Compliance Reviews--beginning with the bases for selecting a grantee for a compliance review--covering both employment and/or services--and tracking the process through completion with issuance of a finding. Note that OCR may also issue recommendations. Examples Include:

a) Police Department 1- ALLEGATIONS involved discrimination against Hispanic officers in all areas, hiring, promotion, on the job harassment.

RESOLUTION: Complaint process instituted for complaints filings, outreach to Hispanic community, diversity training for the entire Police Force. We monitored implementation for a number of years.

b) Police Department 2 - ALLEGATIONS INVOLVED EMPLOYMENT PRACTICES, hiring, promotion assignments. Record keeping was problematic, so part of resolution was requirement to keep documents so OCR would have requisite access; promotional board established.

What is an EEOP?



- **Comprehensive document which analyzes:**
 - an agency's workforce in comparison to its relevant labor market data
 - all agency employment practices to determine their impact on the basis of race, sex, or national origin
- **A tool used to identify possible problem areas where discrimination may be occurring**

Entity Type	Number of Employees	Dollar Amount	Submit EEO to OCR	Preparation and/or Certif. Required	Assurance Required	Send Findings
Educational, Medical, Nonprofit, or Indian Tribe	Does not matter	Does not matter	NO	NO	YES	YES
State or Local Govts. & For-Profit Orgs.	Does not matter	Less than \$25,000	NO	NO	YES	YES
State or Local Govts. & For-Profit Orgs.	Less than 50	Does not matter	NO	YES Certifying less than 50 employees	YES	YES
State or Local Govts. & For-Profit Orgs.	50 or more	More than \$25,000 & less than \$500,000	NO	YES prepare and Certify EEO is on file for review	YES	YES
State or Local Govts. & For-Profit Orgs.	50 or more	More than \$500,000 for one grant OR an aggregate of \$1,000,000 or more in 18 mos.	YES	NO	YES	YES

The Seven-Steps: Overview

1. An introduction stating the agency's official policy on EEO and that the plan is current.
2. A breakdown of the agency's current workforce.
3. A breakdown of the available workforce in the community.
4. A comparison of these breakdowns and identification of underutilization, if any.
5. Specific objectives to address any findings of underutilization.
6. Specific steps which will be taken to achieve the objectives.
7. A plan to disseminate the EEOP to all employees and the general public.

Program Managers should ensure that recipients . . .

- Submit or maintain an EEOP on file, if required
- Collect and keep comprehensive EEOP data
(e.g., applicant flow data, assignments, transfers,
discipline, termination)
- Complete Certifications, as required
- Submit Adverse Findings of Discrimination

. . . and forward civil rights concerns
or questions to CJD or OCR

Office for Civil Rights

(202) 307-0690

TTY (202) 307-2027

www.ojp.usdoj.gov/ocr